IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3136 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAJESHRIBEN DAUGHTER OF VADILAL SHAH

Versus

ASHOKBHAI DAHYABHAI VALAND

Appearance:

1. Criminal Misc.Application No. 3136 of 1997

MR NITIN M AMIN for Petitioner No. 1

MR PJ KANABAR for Respondent No. 1

NOTICE UNSERVED for Respondent No. 1

MS HANSA PUNANI, APP for Respondent No. 2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 07/01/2002

ORAL JUDGEMENT

1. Heard ld. counsel Mr. P.J.Kanabar for Respondent No.1 and ld. APP Ms. Hansa Punani for Respondent No.2.

2. This application has been filed by the petitioner (original accused) - wife of respondent no.1 (orioginal complainant). It has been alleged that she has been dragged to the criminal proceedings though no offence has been committed by her as alleged. It has been further alleged by the petitioner that the respondent no.1 husband has filed criminal complaint as a counter blast as the present petitioner has also filed criminal complaint against respondent no.1 husband for the offence punishable under section 498A of IPC at Bayad Police Station on 10.5.1997. According to her, on the complaint, Bayad Police Station has registered a Crime vide CR No. I. 42/97. It is contended that with a view to pressurise the present petitioner, respondent no.1 has filed the present complaint so that she may settle her disputes with respondent no.1 husband out of court.

3. Considering the nature of the disputes, it is crystal clear that the basic disputes are matrimonial disputes between the present petitioner and respondent no.1 husband. In response to the query raised by this Court, ld. counsel Mr. Kanabar appearing for respondent no.1 husband has stated that he has not been instructed since long by respondent no.1 husband and according to the best information available to him, the parties have settled the matter. He has fairly submitted that even otherwise this Court, in exercise of the powers under Section 482 of CrPC, can quash and set aside the criminal proceedings initiated by respondent no.1 husband. He has not pressed for a reasoned order.

4. Considering the totality of facts and circumstances of the case and that fact that petitioner is also a complainant of a complaint for the offence punishable under section 498A of IPC filed against respondent No.1 husband, I am inclined to allow this application. Ms. Punani, ld. APP appearing for respondent No.2 State has nothing to add.

5. For the reasons aforesaid, this petition is allowed. Criminal Complaint filed by respondent No.1 husband in the Court of ld. JMFC, Modasa Camp at Bayad registered as Inquiry Case No.27/97 and M.Case No.13/97 are hereby quashed and set aside. Obviously, therefore, the criminal proceedings initiated against the present petitioner on the strength of aforesaid complaint, are also hereby stand terminated.

6. Rule is made absolute.

7.1.2002 [C.K. BUCH, J]
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